

- 1 **Online-only Table 1.** Taxes applied to cigarette sale to non-AI/ANs on Indian reservations in selected
2 US states, May 2010 to January 2011^a

State	Tax Rate on Cigarette Sale to Non- AI/ANs, \$	State Cigarette Excise Tax, \$	State Policy on Cigarettee Sale on Indian Reservations
-------	--	---	--

Arizona	1.00	2.00	Title 42 Chapter 3 Article 5 http://www.azleg.gov/ArizonaRevisedStatutes.asp?Title=42
California	0.87	0.87	Board of Equalization Publication 146 http://www.boe.ca.gov/pdf/pub146.pdf
Florida	1.34	1.34	Florida Statute 210.1801 http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0200-0299/0210/Sections/0210.1801.html
Idaho	0.00 ^b	0.57	No laws on implementation of tax collection on sales of cigarettes to non-AI/ANs within reservation boundaries
Iowa	1.36	1.36	IAC 701-82.4 https://www.legis.iowa.gov/docs/ACO/IAC/LINC/01-03-2007.Rule.701.82.4.pdf
Kansas	0.00	0.79	No tribal-specific tobacco taxation laws
Minnesota	1.56	1.56	Minnesota Statutes 297 F.07 https://www.revisor.mn.gov/statutes/?id=297F.07
Montana	1.70	1.70	Montana Code Annotated 16-11-111 http://leg.mt.gov/bills/mca/16/11/16-11-111.htm
Nebraska	0.64	0.64	US Department of Revenue's information guide, "Taxation of Native Americans Living on an Indian Reservation" http://www.revenue.nebraska.gov/info/7-124.pdf
Nevada	0.00 ^c	0.80	NAC: Ch 370 https://www.leg.state.nv.us/NAC/NAC-370.html
New Mexico	0.75 ^d	1.38 ^e	NM Statutes Article 12 http://law.justia.com/codes/new-mexico/2006/nmrc/jd_ch7art12-46b1.html

New York	0.00	3.75 ^f	The enforcement of tax collection on tribal cigarette sales to non-tribal members not in place
North Dakota	0.44 ^g	0.44	Ch 57-36-06 and Ch 57-36-32 http://www.legis.nd.gov/cencode/t57c36.pdf?20150415114157
Oklahoma	0.55 ^h	1.03	§710:70-7-8 http://okrules.elaws.us/oac/710:70-7-8
Texas	0.00	1.41	No tribal-specific tobacco taxation laws
Vermont	0.00	2.24	90% of Indian reservation cigarette purchases were from other states in 2010-2011 TUS-CPS ²²
Washington	2.91 ⁱ	3.02	Washington State Department of Revenue publication “Cigarette Tax” http://dor.wa.gov/Docs/Pubs/CigarTax/CigaretteTax.pdf
Wisconsin	2.52	2.52	WSA 139.30 https://docs.legis.wisconsin.gov/statutes/statutes/139/II/30
Wyoming	0.00 ^j	0.60	WY Dept. of Rev Rules, Ch 4, §8 http://soswy.state.wy.us/Rules/RULES/7569.pdf

^aStates with very limited cigarette purchases made on Indian reservations (<10) were excluded from the analysis.

^bAlthough according to IDAPA 35.01.10, “sales of cigarettes by wholesalers to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation must have Idaho cigarette stamps affixed”, no laws implement such tax collection. In addition, in the 2010-2011 TUS-CPS, the price difference between cigarette purchases made on reservation and off reservation was about \$1.14,²² which is higher than the state excise tax (\$0.57). The percentage of smokers who purchased from an Indian reservation was about 7.3%, which is almost double the national average (3.8%). For these reasons, zero tax was assumed on cigarettes sold on Indian reservations to non-tribal members in Idaho.

^cZero tax was assumed on cigarettes sold on Indian reservations to non-tribal members in Nevada for the following reasons: (1) Tribal tax stamps were provided free of charge by the state to a list of tribes (NAC 370.250). The statute does not address to whom the cigarettes are sold. (2) According to NAC 370.250, the tax imposed by the reservation or colony must be equal to or greater than the State of Nevada tax rate. However, the implementation of this regulation was considered very weak. The tribe shall only furnish the department with a copy of the tribal ordinance that imposes the tribal tax, and the tribe is not required to maintain any records of cigarettes received, sold, or distributed by the tribe on that reservation or colony (NAC 370.210). In addition, data from the 2010-2011 TUS-CPS indicate that the price difference between purchases made on reservation and off reservation (\$1.11) was higher than the Nevada State excise tax (\$0.80), and the prevalence of purchases made on Indian reservations in Nevada was much higher (15.0%) than the national prevalence (3.7%).²²

^dAccording to Article 12, effective July 1, 2010, tribes must have a qualifying tribal cigarette tax of at least \$0.75 per pack of 20 cigarettes to receive cigarettes with a tax credit stamp affixed for sales to non-tribal members. Given that the tribal tax is lower than the state excise rate, it is rational to assume that the tribes have an incentive to impose a tribal tax of \$0.75.

22 ^eNew Mexico State cigarette excise tax was increased from \$0.91 to \$1.66 on July 1, 2010. The adjusted state tax rate (\$1.38)
23 was weighted by the number of months before and after the tax increase between May 2010 and January 2011: $0.91 \times (3/8) +$
24 $1.66 \times (5/8)$.

25 ^fNew York State cigarette excise tax was increased from \$2.75 to \$4.35 on July 1, 2010. The adjusted state tax rate (\$3.75)
26 was weighted by the number of months before and after the tax increase between May 2010 and January 2011: $2.75 \times (3/8) +$
27 $4.35 \times (5/8)$.

28 ^gA consumer use tax is imposed in 2 sections: 5 mills in Chapter 57-36-06 and 17 mills in 57-36-32, for a total of 22 mills per
29 cigarette (a mill is equal to one-tenth of a cent) or 44 cents per pack of cigarettes, which is equivalent to the state excise tax.

30 ^hAccording to §710:70-7-8, different types of rates are applicable to sales on Indian reservations to non-tribal members
31 depending on state/tribe compact or distance to the border of neighboring states. The estimated rate of \$0.55 was an average
32 of 6 types of rates: state/tribal rate (\$0.515), state/tribal border rate (\$0.2575), new compact rate (\$0.8575), Kansas border
33 rate (\$0.6075), exception rate (\$0.0575), and non-compact rate for sales to non-tribal members (\$1.03).

34 ⁱWashington State has 29 federally recognized tribes, 22 of which operate under a Cigarette Tax Compact that allows the
35 tribes to keep 100% of tribal taxes collected. Seventeen of the 22 tribes collected a tribal tax equal to 100% of the state
36 cigarette excise tax rate. When a Cigarette Tax Compact becomes effective, the tribe has the option of starting at 80% of the
37 state rate. Four tribes implemented the reduced rate from May 2010 to January 2011. Another tribe was allowed a reduced
38 rate of 70% of the state rate in exchange for sharing a portion of the tribal taxes collected within the state. Seven tribes
39 without a Cigarette Tax Compact were under the allocation system. Under this system, each tribe was allocated a set amount
40 of tax-free cigarettes for tribal members based on tribal enrolled population. Sales of cigarettes to non-tribal members were
41 subject to the Washington State cigarette tax. Synthesizing this information, among 29 tribes, 100% of the state rate was
42 collected on sales to non-tribal members in 24 tribes; 80% of the state rate was collected in 4 tribes and 70% of the state rate
43 was collected in 1 tribe. The assumed tax rate of \$2.905 was a weighted average rate: $(24/29) \times 3.02 + (4/29) \times 3.02 \times 0.8 +$
44 $(1/29) \times 3.02 \times 0.7$. Information was obtained from the state publication on Cigarette Tax and by contacting the Washington
45 State Department of Revenue.

46 ^jAccording to WY Dept. of Rev Rules, Ch 4, §8, for those cigarettes purchased by Native American or Tribal Vendors under
47 circumstances in which they are not required to affix a Wyoming Cigarette Tax Stamp, Wyoming requires the vendor to
48 report its total cigarette sales less any exempt sales (ie, those sold to tribal members) and to remit cigarette tax on those sales
49 directly to the department. Although the tax rate for sales on Indian reservations to non-tribal members was not available, the
50 total amount of tax remitted for sales made to non-AI/ANs from May 2010 to January 2011 was provided by the state
51 Department of Revenue.

52

53

54 **Online-only Table 2.** Annual tax-revenue losses from cigarette purchases made on Indian reservations,
55 selected US states,^a TUS-CPS,^b 2010-2011

State	Losses in \$ Millions ^c
Arizona	27.82
Idaho	1.45
Kansas	4.09
Nevada	10.25
New Mexico	6.63
New York	292.26
Oklahoma	26.92
Texas	14.08
Vermont	3.08
Washington	3.50
Wyoming	0.83

56 ^aState estimates (n = 32) were suppressed if the unweighted number of smokers who purchased cigarettes from an Indian
57 reservation (either resided within the state or resided out of state) was <10. In Vermont, the within-state purchases made on
58 reservations were <10 and out-of-state purchases made on reservations were >10. Therefore, the estimated revenue losses in
59 Vermont were only subject to out-of-state purchases made on reservation. For all other states in the table, the estimated
60 revenue losses were only subject to within-state purchases made on reservation because the out-of-state purchases made on
61 reservation were <10 in these states. Therefore, these estimates represent lower-bound state revenue losses from purchases
62 made on Indian reservations.

63 ^bData source: Tobacco Use Supplement to the Current Population Survey 2010-2011.²²

64 ^cFor California, Florida, Iowa, Minnesota, Montana, Nebraska, North Dakota, and Wisconsin, the state cigarette excise tax
65 was assumed to have been collected on cigarettes sold to non-tribal members on Indian reservations based on reference to
66 state tax policy. Therefore, no tax-revenue losses were reported on purchases made on Indian reservations for these states.

CDC Technical Editor's Version